

## Message Text

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ACTION AID-59

INFO OCT-01 EUR-12 ISO-00 EB-08 IGA-02 FDRE-00 L-03  
SP-02 CIAE-00 DODE-00 /087 W  
-----113369 281252Z /47  
P 281000Z JUL 77  
FM AMCONSUL MILAN  
TO SECSTATE WASHDC PRIORITY 5514

UNCLAS SECTION 1 OF 4 MILAN 1239

DEPT FOR AID/W

PASS TO: SER/CM FROM MONCADA

ALSO FOR: GC/C, R. PERKINS, GC/LEG, W. ESPINOSA, LEG, G.W.  
SMITH, ASHA, A. CONSTANTINO

E.O. 11652: N/A  
TAGS: EAID, IT  
SUBJECT: REQUEST FOR DEVIATIONS FOR DIRECT AID CONTRACT FOR  
SCHOOL CONSTRUCTION IN ITALY (ITALIAN EARTHQUAKE PROGRAM)

PURSUANT TO AIDPR 7-1. 107, CM/SOD CONTRACTING OFFICER REQUESTS  
SER/CM APPROVAL TO DEVIATE FROM FPR CLAUSES DELINEATED BELOW IN  
CONNECTION WITH DIRECT AID CONSTRUCTION CONTRACT FOR SCHOOLS AT  
SAN DANIELE DEL FRIULI AND MANIAGO, ITALY (ITALIAN EARTHQUAKE  
PROGRAM):

A. ALTERATIONS TO SF 23-A (GENERAL PROVISIONS - CONSTRUCTION  
CONTRACT), FPR 1-16. 901-23A

1. PROVISION NO. 1 ENTITLED "DEFINITIONS" ADD THE FOLLOWING  
TO SUBPARAGRAPH (B):

" THE CONTRACTING OFFICER SHALL ALSO APPOINT A  
REPRESENTATIVE TO PERFORM THE FUNCTIONS OF THE  
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DIREZIONE LAVORI/COORDINATOR SPECIFIED IN THIS  
CONTRACT".

ADD ALSO THE FOLLOWING SUBPARAGRAPHS:

"(C) WORKS: THE COMPLEX OF PERMANENT FACILITIES  
TO BE CONSTRUCTED IN ACCORDANCE WITH THE CONTRACT

TERMS.

(D) WORK: ALL THE SERVICES AND MATERIALS REQUIRED FOR THE EXECUTION OF THE WORKS, AND THE ADDITIONAL SERVICES STIPULATED IN THIS CONTRACT.

(E) A.I.D.: THE INITIALS REPRESENTING THE AGENCY FOR INTERNATIONAL DEVELOPMENT".

NOTE TO SER/CM. DIREZIONE LAVORI REQUIRED UNDER ITALIAN LAW. WORKS AND WORK CUSTOMARY TERMINOLOGY IN ITALY.

2. PROVISION NO. 2 ENTITLED "SPECIFICATIONS AND DRAWINGS" ADD THE FOLLOWING TO LINE 8 AFTER "GOVERN":

" IN CASE OF DIFFERENCE BETWEEN SMALL AND LARGE SCALE DETAIL DRAWINGS THE LARGE SCALE DETAIL DRAWINGS SHALL GOVERN. WHERE A PORTION OF THE WORK IS DRAWN OUT AND THE REMAINDER OF THE WORK IS INDICATED IN OUTLINE, THE PARTS DRAWN OUT SHALL APPLY ALSO TO ALL OTHER LIKE PORTIONS OF THE WORK".

NOTE TO SER/CM. ADDED ON ADVICE OF AID DESIGN CONTRACTOR

3. PROVISION NO. 3 ENTITLED "CHANGES" ADD THE FOLLOWING SUBPARAGRAPH (G):  
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"(G) THE PRECEDING COVENANTS AGREED UPON IN THIS PROVISION ARE IN DEROGATION OF RIGHTS RESERVED TO THE CONTRACTOR UNDER ARTICLE 1661 OF THE ITALIAN CIVIL CODE".

NOTE TO SER/CM. ADDED ON ADVICE OF COUNSEL

4. PROVISION NO. 5 ENTITLED "TERMINATION FOR DEFAULT - DAMAGES FOR DELAY-TIME EXTENSIONS "AMEND SUBPARAGRAPH (D) (I) AS FOLLOWS:

ADD THE WORD "OR" AFTER "EMBARGOES" IN LINE 8 AND A SEMICOLON FOLLOWED BY THE WORD "AND" AFTER "WEATHER" IN LINE 9, AND DELETE ALL THAT REMAINS IN SUBPARAGRAPH (D) (I). ALSO DELETE SUBPARAGRAPH (G).

NOTE TO SER/CM. MODIFICATIONS MADE ON ADVICE OF DESIGN CONTRACTOR WHO CAUTIONS THAT DELETED LANGUAGE WILL INVITE ABUSE BY CONSTRUCTION CONTRACTOR.

5. PROVISION NO. 7 ENTITLED "PAYMENTS TO CONTRACTOR" ADD THE FOLLOWING TO PARAGRAPH (B), LINE 4 AFTER "OFFICER":

" ONCE EACH MONTH THE CONTRACTOR SHALL SUBMIT TO  
AID REGIONAL OFFICE FRIULI OR SUCH OTHER  
APPROVAL AUTHORITY DESIGNATED BY THE CONTRACTING  
OFFICER, U.S. GOVERNMENT VOUCHER FORM FS-455  
AND DETAILED RATE OF PROGRESS REPORTS COVERING  
THE WORK CARRIED OUT DURING THE RESPECTIVE MONTH,  
IN 5 (FIVE) COPIES DULY SIGNED".

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ALSO ADD THE FOLLOWING TO PARAGRAPH (F):

"FOR PURPOSES OF PAYMENTS TO CONTRACTOR, MATERIAL  
DELIVERED TO THE CONTRACTOR AT LOCATIONS OTHER  
THAN THE SITE(S) MAY, WITH THE SPECIFIC AUTHORIZATION  
OF THE CONTRACTING OFFICER, BE TAKEN INTO  
CONSIDERATION IN THE PREPARATION OF ESTIMATES".

NOTE TO SER/CM. ADDITION TO PARAGRAPH (B) FOR CLARIFICATION.  
ADDED PARAGRAPH (F) GIVES SPECIFIC CONTRACT AUTHORIZATION  
REQUIRED IN PARAGRAPH (B).

6. PROVISION NO. 9 ENTITLED "MATERIAL AND WORKMANSHIP" ADD TO  
SUBPARAGRAPH (B), LINE 4 AFTER "EMPLOYEE" THE FOLLOWING:

"OF THE CONTRACTOR OR OF THE SUBCONTRACTOR"

ALSO ADD THE FOLLOWING SUBPARAGRAPH (C):

"THE CONTRACTOR SHALL NOTIFY THE CONTRACTING OFFICER,  
IN WRITING, OF THE NAME OF ANY PROSPECTIVE SUBCONTRACTOR  
NOT LATER THAN 10 (TEN) CALENDAR DAYS BEFORE ENTERING  
INTO ANY SUBCONTRACT FOR ANY PART OF THIS CONTRACT.

PURSUANT TO SUCH NOTIFICATION, THE CONTRACTING OFFICER, MAY IN WRITING, REQUIRE THE CONTRACTOR TO REFUSE TO EMPLOY IN THE PERFORMANCE OF UNCLASSIFIED

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THIS CONTRACT ANY SUBCONTRACTOR THE CONTRACTING OFFICER DEEMS INCOMPETENT OR CARELESS".

NOTE TO SER/CM. ADDED ON ADVICE OF DESIGN CONTRACTOR. IMPLEMENTATION OF SUBPARAGRAPH (C) WILL BE THROUGH DIRECTOR, AID REGIONAL OFFICE FRIULI AS COR.

7. PROVISION NO. 12 ENTITLED "PERMITS AND RESPONSIBILITIES" ADD TO LINE 3 AFTER "PERMITS" THE FOLLOWING:

"EXCEPT THE REQUIRED MUNICIPAL BUILDING LICENSE WHICH IS SUPPLIED BY THE GOVERNMENT".

ALSO DELETE FROM LINE 4 "FEDERAL, STATE AND MUNICIPAL" AND FROM LINES 5, 6 AND 7 "HE SHALL BE SIMILARLY RESPONSIBLE FOR ALL DAMAGES TO PERSONS OR PROPERTY THAT OCCUR AS A RESULT OF HIS FAULT OR NEGLIGENCE".

NOTE TO SER/CM. ADDITION TO LINE 3 SELF EXPLANATORY. DELETION FROM LINE 4 MADE TO REFLECT CONTRACT OPERATIONS IN ITALY. DELETION FROM LINES 5, 6 AND 7 TO AVOID DUPLICATION OF MATERIAL COVERED IN "ADDITIONAL PROVISIONS" TO CONTRACT.

8. PROVISION NO. 13 ENTITLED "CONDITIONS AFFECTING THE WORK" ADD THE FOLLOWING TO LINE 3 AFTER "CONDITIONS":

"SUCH AS MEANS OF ACCESS, NATURE OF THE SITE AND SUBSOIL, HYDROLOGICAL AND CLIMATIC CONDITIONS, AND ANY OTHER CIRCUMSTANCES".

NOTE TO SER/CM. ADDED ON ADVICE OF DESIGN CONTRACTOR.

9. PROVISION NO. 15 ENTITLED "SHOP DRAWINGS" ADD THE FOLLOWING UNCLASSIFIED

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TO SUBPARAGRAPH (B) AFTER "THEREOF" IN LINE 10:

"SUCH APPROVAL OR DISAPPROVAL SHALL BE FORTHCOMING WITHIN 15 WORKING DAYS AFTER RECEIPT. NO DELAY IN GIVING SUCH APPROVAL OR DISAPPROVAL SHALL GIVE RIGHT TO AN EXTENSION OF THE CONTRACT

UNLESS THE CONTRACTOR SERVES THE CONTRACTING OFFICER A WRITTEN NOTICE REQUESTING HIS APPROVAL OR DISAPPROVAL WITHIN 5 WORKING DAYS FROM RECEIPT OF SUCH NOTICE.

IF SUCH APPROVAL OR DISAPPROVAL FAILS TO BE GIVEN WITHOUT A JUSTIFIED REASON DURING THIS 5 DAY TERM, THE CONTRACTOR SHALL HAVE THE RIGHT TO REQUEST IN WRITING AN EXTENSION OF THE PERIOD OF THE CONTRACT EQUAL TO THE DELAY IN GIVING APPROVAL OR DISAPPROVAL. SUCH EXTENSION SHALL HAVE EFFECT FROM THE DATE OF RECEIPT OF THE WRITTEN NOTICE. THE CONTRACTOR OFFICER'S JUSTIFIED REFUSAL TO GIVE APPROVAL OR DISAPPROVAL SHALL NOT AUTHORIZE THE EXTENSION OF THE TERMS OF COMPLETION OF THE WORKS."

NOTE TO SER/CM. ADDED ON ADVICE OF DESIGN CONTRACTOR TO REFLECT PRACTICE IN ITALY.

10. PROVISION NO. 18 ENTITLED "TERMINATION FOR CONVENIENCE OF THE GOVERNMENT" DELETE IN ITS ENTIRETY AND INSERT IN LIEU THEREOF SECTION 1-8.703 OF THE FEDERAL PROCUREMENT REGULATIONS AS REPRODUCED HEREIN BELOW:

NOTE TO SER/CM. IN THE "ALTERATION TO CONTRACT" FORM HERE FOLLOWS THE COMPLETE TEXT OF FPR 1-8.703 EXCEPT THAT IN THE SECOND LINE IN THE SECOND PARAGRAPH IN SUBPARAGRAPH (B) (9) THE TEXT IS MODIFIED TO READ ", AS DEFINED IN PROVISION NO. 18 OF THE ADDITIONAL PROVISIONS OF THIS CONTRACT,". IN NO. 18, THE SITE CLEARANCE PERIOD IN 15 CALENDAR DAYS. THIS AT UNCLASSIFIED

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SPECIFIC REQUEST OF ASHA PROGRAM MANAGER WHO DESIRES SPEEDY AID WITHDRAWAL FROM ITALY UNDER CONDITIONS THAT MAY REQUIRE TERMINATION FOR CONVENIENCE.

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11. PROVISION NO. 21 ENTITLED "PATENT INDEMNITY" ADD TO LINE 4  
AFTER "STATES", "OR ITALY".

NOTE TO SER/CM. THIS ADDITION SELF EXPLANATORY.

12. PROVISION NO. 24 ENTITLED "BUY AMERICAN" DELETE IN ITS  
ENTIRETY AND INSERT IN LIEU THEREOF THE FOLLOWING:

"SOURCE REQUIREMENTS OF PROCUREMENT OF EQUIPMENT,  
VEHICLES, MATERIALS, SUPPLIES, AND SERVICES.  
EXCEPT AS MAY BE SPECIFICALLY APPROVED OR DIRECTED  
IN ADVANCE BY THE CONTRACTING OFFICER, THE SOURCE  
OF ANY PROCUREMENT FINANCED UNDER THIS CONTRACT  
SHALL BE FREE WORLD COUNTRIES AS LISTED IN A.I.D.  
GEOGRAPHIC CODE 935. IN ADDITION TO THE FOREGOING  
RULE NO PRODUCED COMMODITY SHALL BE PROCURED SPECIFICALLY  
FOR PERFORMANCE OF THIS CONTRACT IF IT CONTAINS ANY  
COMPONENT FROM COUNTRIES OTHER THAN FREE WORLD COUNTRIES  
AS LISTED IN A.I.D. GEOGRAPHIC CODE 935".

NOTE TO SER/CM. BUY AMERICAN PROVISION DELETED PURSUANT  
TO AIDPR 7-6.103. THE ABOVE TEXT IS ALTERATION OF AIDPR  
7-7.5401-7. I HAVE BEEN ADVISED BY CG (ESPINOSA) THAT THIS  
ALTERATION IS APPROVED FOR PROJECT.

13. PROVISION NOS. 25, ENTITLED "EQUAL OPPORTUNITY";  
28, ENTITLED "CONVICT LABOR"; 29., ENTITLED "UTILIZATION OF  
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SMALL BUSINESS CONCERNS"; AND 30, ENTITLED "UTILIZATION OF  
MINORITY BUSINESS ENTERPRISES". IN THE "ALTERATIONS IN  
CONTRACT" FORM THE FOLLOWING STATEMENT HAS BEEN INCLUDED  
WITH THE RESPECT TO EACH OF THE ABOVE CITED PROVISIONS:

"THIS PROVISION APPLIES ONLY TO WORK PERFORMED  
BY EMPLOYEES RECRUITED WITHIN THE UNITED STATES, ITS  
POSSESSIONS, OR PUERTO RICO".

NOTE TO SER/CM. THIS ALTERATION MADE TO CLARIFY INTENT OF  
U.S. LAW FOR ITALIAN CONTRACTORS.

17. PROVISION NO. 31 ENTITLED "FEDERAL, STATE AND LOCAL  
TAXES" DELETE IN ITS ENTIRETY AND INSERT IN LIEU THEREOF

THE FOLLOWING:

"TAXES

THE CONTRACT PRICE INCLUDES ANY AND ALL TAXES  
REQUIRED TO BE PAID IN ACCORDANCE WITH THE LAWS OF  
ITALY AND OF ITS SUBDIVISIONS OR ANY OTHER COUNTRY  
DURING THE COURSE OF PERFORMANCE OF THIS CONTACT".

ACCORDING TO ARTICLE 40 OF THE DECREE-LAW OF THE  
18TH SEPTEMBER, 1976 NO. 648, AS AMENDED BY THE  
LAW OF THE 30TH OCTOBER, 1976 NO. 730, NO  
REGISTRAION OR STAMP TAX IS DUE WITH RESPECT TO  
THE CONTRACT AND NO I.V.A. IS DUE WITH RESPECT TO  
THE PAYMENTS TO BE MADE IN CONSIDERATION OF THE  
SERVICES PROVIDED BY THIS CONTRACT.  
IN THE EVENT, HOWEVER, THAT ANY SUCH TAXES SHALL  
BECOME DUE, A.I.D. AGREES TO REIMBURSE THE  
CONTRACTOR FOR THE AMOUNT DUE".  
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NOTE TO SER/CM. THIS ALTERATION IS APPROPRIATE FOR  
CONTRACT PERFORMED ENTIRELY IN ITALY. TEXT FORMULATED  
WITH ADVICE OF COUNCIL.

THIS CONCLUDES ALTERATIONS TO SF 23 - A.

B. ALTERATIONS TO OTHER FPR CLAUSES TO BE INCLUDED IN  
"ADDITIONAL PROVISIONS" OF CONTRACT.

1. FPR 1-3.814-1(B) ENTITLED "PRICE REDUCTION FOR DEFECTIVE  
COST OR PRICING DATA - PRICE ADJUSTMENTS":

SUBSTITUTED LIRE 88 MILLION FOR \$100,000. CONTRACT  
PRICE AND UNIT PRICE SCHEDULE IN ITALIAN LIRE.

2. FPR 1-3.814-3(B) ENTITLED "SUBCONTRACTOR COST OR PRICING  
DATA - PRICE ADJUSTMENTS": SUBSTITUTED LIRE 88 MILLION  
FOR \$100,000 IN PARAGRAPH (A), AND SUBSTITUTED LIRE  
44 MILLION FOR \$100,000 IN SUBPARAGRAPH (B) (1) AND (2)  
AND IN PARAGRAPH (D).

3. FPR 1-3.814-2 ENTITLED "AUDIT". FOLLOWING ALTERATIONS  
MADE:

(I) CLAUSE TITLE CHANGED TO "AUDIT IN THE EVENT OF  
CHANGE OR MDIFICATION OF CONTRACT" TO CLARIFY USG INTENT.  
(II) ELIMINATE PARAGRAPH (B) ENTITLED "EXAMINATION OF  
COSTS" BECAUSE CONTRACT WILL NOT BE TYPE SPECIFIED THEREIN.

(III) DESIGNATE PARAGRAPH (C) ENTITLED "COST OR PRICING DATA" AS PARAGRAPH (B), SAME TITLE.  
(IV) IN PARAGRAPH (B) ENTITLED "COST OR PRICING DATA" DROP "THIS CONTRACT" APPEARING IN LINE 3 AND SUBSTITUTE "TO THIS CONTRACT" FOR "THERETO" IN LINE 4. ALSO, DELETE THE REMAINDER OF PARAGRAPH (B) AFTER "UNITED STATES UNCLASSIFIED

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GOVERNMENT" IN THE FIRST SENTENCE AND SUBSTITUTE THE FOLLOWING:

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FM AMCONSUL MILAN  
TO SECSTATE WASHDC PRIORITY 5517

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", AND THE COMPTROLLER GENERAL OF THE UNITED STATES OR HIS REPRESENTATIVES, SHALL HAVE THE RIGHT TO EXAMINE ALL RELEVANT BOOKS, RECORDS, DOCUMENTS AND OTHER DATA OF THE CONTRACTOR".

(V) DESIGNATE PARAGRAPH (D) ENTITLED "AVAILABILITY" AS PARAGRAPH (C), SAME TITLE.

(VI) IN PARAGRAPH (C) ENTITLED "AVAILABILITY" DELTE "AND (C)". ALSO DELETE "SUCH LESSER TIME SPECIFIED IN PART 1-20 OF THE FEDERAL PROCUREMENT REGULATIONS (41 CFR PART 1-20) AND".

THIS CONCLUDES ALTERATIONS TO DESIGNATED FPR CLAUSES IN "ADDITIONAL PROVISIONS" OF CONTRACT.



COPY OF INTENDED CONTRACT FORM, INCLUDING ABOVE ALTERATIONS,  
SHOULD BE AVAILABLE TO YOU IN AID/W WEEK OF AUGUST 1 THROUGH  
GC ESPINOSA/SMITH. COVER PAGE (SF-23), GENERAL PROVISIONS  
(SF 23-A), ALTERATIONS IN CONTRACT, ADDITIONAL PROVISIONS,  
AND UNIT PRICE SCHEDULE IN ENGLISH. DRAWINGS, SPECIFICATIONS,  
AND SAFETY REGULATIONS IN ITALIANA.

BID OPENING IN MILAN SCHEDULED FOR 1100 HOURS, MONDAY,  
AUGUST 1, 1977. ANTICIPATE CONTRACT SIGNING WEEK OF  
AUGUST 7 AND SUBSEQUENT RETURN TO AID/W.  
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PLEASE CABLE AUTHORIZATION FOR REQUESTED ALTERATIONS  
THROUGH CON GEN MILAN.WRIGHT

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## Message Attributes

**Automatic Decaptioning:** X  
**Capture Date:** 01-Jan-1994 12:00:00 am  
**Channel Indicators:** n/a  
**Current Classification:** UNCLASSIFIED  
**Concepts:** CONSTRUCTION, CONTRACTS, SCHOOLS, PROGRAMS (PROJECTS), NATURAL DISASTERS, EARTHQUAKES  
**Control Number:** n/a  
**Copy:** SINGLE  
**Sent Date:** 28-Jul-1977 12:00:00 am  
**Decaption Date:** 01-Jan-1960 12:00:00 am  
**Decaption Note:**  
**Disposition Action:** n/a  
**Disposition Approved on Date:**  
**Disposition Case Number:** n/a  
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**Document Unique ID:** 00  
**Drafter:** n/a  
**Enclosure:** n/a  
**Executive Order:** N/A  
**Errors:** N/A  
**Expiration:**  
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**From:** MILAN  
**Handling Restrictions:** n/a  
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**Message ID:** 83d2b370-c288-dd11-92da-001cc4696bcc  
**Office:** ACTION AID  
**Original Classification:** UNCLASSIFIED  
**Original Handling Restrictions:** n/a  
**Original Previous Classification:** n/a  
**Original Previous Handling Restrictions:** n/a  
**Page Count:** 9  
**Previous Channel Indicators:** n/a  
**Previous Classification:** n/a  
**Previous Handling Restrictions:** n/a  
**Reference:** n/a  
**Retention:** 0  
**Review Action:** RELEASED, APPROVED  
**Review Content Flags:**  
**Review Date:** 26-Jan-2005 12:00:00 am  
**Review Event:**  
**Review Exemptions:** n/a  
**Review Media Identifier:**  
**Review Release Date:** n/a  
**Review Release Event:** n/a  
**Review Transfer Date:**  
**Review Withdrawn Fields:** n/a  
**SAS ID:** 1960435  
**Secure:** OPEN  
**Status:** NATIVE  
**Subject:** REQUEST FOR DEVIATIONS FOR DIRECT AID CONTRACT FOR SCHOOL CONSTRUCTION IN ITALY (ITALIAN EARTHQUAKE PROGRAM) PURSUANT TO AIDPR 7-1. 107, CM/SOD CONT RACTING OFF  
**TAGS:** EAID, IT  
**To:** STATE  
**Type:** TE  
**vdkgvkey:** odbc://SAS/SAS.dbo.SAS\_Docs/83d2b370-c288-dd11-92da-001cc4696bcc  
**Review Markings:**  
Margaret P. Grafeld  
Declassified/Released  
US Department of State  
EO Systematic Review  
22 May 2009  
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